

**IN THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT
OF ILLINOIS EASTERN DIVISION**

BRITNEE KENYON,

Plaintiff,

v.

BOARD OF EDUCATION OF TOWNSHIP
HIGH SCHOOL DISTRICT 113, DANIEL
STRUCK, THOMAS KRIEGER, MICHELLE
HAMMER BERNSTEIN,

Defendants,

and

J.L.,

Respondent in Discovery

Case No. 1:24-cv-09878

Judge Sharon Johnson Coleman

**DEFENDANT MICHELLE BERNSTEIN'S MOTION TO DISMISS PLAINTIFF'S
AMENDED COMPLAINT PURSUANT TO RULE 12(b)(6) AND THE ILLINOIS
CITIZEN PARTICIPATION ACT**

Defendant Michelle Bernstein, by and through undersigned counsel, hereby moves pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure and the Illinois Citizen Participation Act, 735 ILCS 110/1 *et seq.*, to dismiss Plaintiff's complaint against her. As delineated in more detail in the memorandum that accompanies this motion, Plaintiff's three causes of action against Bernstein should be dismissed because (1) they are barred by the Illinois Citizen Participation Act's prohibition of lawsuits that are designed to chill public advocacy; (2) the First Amendment prohibits the claims against Bernstein; and (3) the Plaintiff has failed to plead a claim. Defendant also requests attorneys' fees pursuant to 735 ILCS 110/25, which awards those fees to defendants in actions brought under the Illinois Citizen Participation Act.

Defendant Bernstein has agreed with the Plaintiff on the following proposed schedule: the parties propose that Plaintiff Kenyon's response to this Motion be due December 23, 2024, and that Defendant Bernstein's reply be due January 13, 2025.

Dated: November 18, 2024

Respectfully submitted,

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Counsel for Defendant Michelle Bernstein

* Admitted in this Court's General Bar.

** Admitted Pro Hac Vice

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on November 18, 2024, he caused a copy of the foregoing Defendant's Motion to Dismiss to be e-filed using the CM/ECF e-filing system which will serve all parties of record.

/s/ Nathan J. Moelker